

## ***Ruling 2001-02***

Vermont Department of Taxes

Date: March 28, 2001

Written By: George H. Phillips, Policy Analyst

Approved By: Janet Ancel, Commissioner of Taxes

You have asked for a ruling on the sales and use tax consequences of a customer being given less than a full refund or credit when an order is canceled or merchandise is returned.

The facts stated in your letter of March 21, 2001 are as follows. [Business Name] operates [Business Name], a specialty store specializing in home décor items. Because a large portion of the property sold by [Business Name] are special orders for customers, merchandise can not normally be returned to suppliers. When an order is canceled or merchandise is returned, a "restocking fee" of 15% of the total price is charged to the customer.<sup>1</sup> The credit given to the customer is 85% of the original purchase price.

Although you have phrased the question as whether the restocking charge is subject to sales tax, the actual question is how to compute the taxable receipt for the merchandise originally sold or ordered. The restocking fee does not represent a charge for any service provided to the customer. It is a limit on the available credit for returned merchandise or cancelled sales. The original charge for the merchandise remains taxable, assuming no other exemptions apply, to the extent that it was not refunded or credited.

Vermont sales tax is imposed on the receipts from sales of tangible personal property. 32 V.S.A. § 9771(1). "Receipt" is defined at § 9701(4) and excludes ". . . any amount for which credit is allowed by the vendor to the purchaser, and . . . any allowance in cash or by credit made upon the return of merchandise pursuant to warranty or the price of property returned by customers when the full price thereof is refunded either by cash or by credit...."

The facts in your letter identify a credit allowed by the vendor for 85% of the purchase price of the property. When the credit is issued, the taxable receipt of the original sale is reduced by the amount of the credit. Therefore, a credit should also be given for 85% of the tax originally charged. The credit should be reported on your return (as a negative taxable sale unless there has been an intervening rate change) for the period in which the credit is given.

This ruling is issued solely to your business and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling to determine the Department's general approach, but the Department will not be bound by this ruling in the case of any other taxpayer or in the case of any change in the relevant statute or regulations.

---

<sup>1</sup> The letter indicates that the fee may vary from 10% to 15%. A single percentage was used in the ruling for simplicity.